

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TIGER ACCESSORY GROUP, L.L.C.,
an Illinois Limited Liability Company,

Plaintiff,

v.

PILOT AUTOMOTIVE, INC., a
California Corporation

and

WANG'S INTERNATIONAL, INC., a
California Corporation,

Defendants.

**PLAINTIFF'S REPLY TO
DEFENDANTS' COUNTER-CLAIMS**

Case No. 07 CV 6825

Judge William J. Hibbler
Magistrate Maria Valdez

Plaintiff Tiger Accessory Group, L.L.C. (hereinafter "Plaintiff" or "TAG") by its attorneys, hereby replies to the counter-claims of Defendants, Pilot Automotive, Inc. and Wang's International, Inc. (collectively "Defendants" or "Pilot") as follows:

Counter-Claim Paragraph 1: These counter-claims are asserted against Plaintiff/Counter-Defendant, Tiger Accessory Group L.L.C. (Plaintiff), and arise under the Trademark Act, 15 U.S.C. §1051 *et seq.*, and, therefore, are asserted through the Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202. As a result of the Complaint filed by Plaintiff against Defendants, there is currently an actual controversy between the parties. This Court has jurisdiction under 28 U.S.C. §§1331 and 1338.

Answer Plaintiff admits the allegations of paragraph 1 of the counter-claims.

Counter-Claim Paragraph 2: Venue properly lies in this judicial district under the provisions of 28 U.S.C. §§1391 [sic].

Answer Plaintiff admits the allegations of paragraph 2 of the counter-claims.

Count 1 – Declaratory Judgment

Counter-Claim Paragraph 3: There is a justiciable controversy concerning the validity and infringement of U.S. Trademark Registration No. 1,488,309, and any rights claimed in the “Baja” mark identified therein under state and common law as set forth in the Complaint and the Answer to which this counter-claim is appended.

Answer Plaintiff admits the allegations of paragraph 3 of the counter-claims that there is a justiciable controversy concerning U.S. Trademark No. 1,488,309, but denies that Defendants are entitled to any relief based on the allegations set forth in paragraph 3.

Counter-Claim Paragraph 4: Plaintiff has asserted that U.S. Trademark Registration No. 1,488,309 was duly and legally issued, that it has accrued rights in the “Baja” mark identified therein under state and common law and that Defendants [sic] mark when applied to automotive lighting products infringes such rights.

Answer Plaintiff admits the allegations of paragraph 4 of the counter-claims.

Counter-Claim Paragraph 5: Defendants allege, on information and belief, that U.S. Trademark Registration No. 1,488,309 and any rights in the “Baja” mark identified therein allegedly accrued by Plaintiff under federal, state and/or common law are invalid as failing to comply with the provisions of 15 U.S.C. §§1051 *et seq.* and the common law.

Answer Plaintiff denies each and every allegation contained in paragraph 5 of the counter-claims.

Counter-Claim Paragraph 6: Defendants have not infringed nor are they now infringing U.S. Trademark Registration No. 1,488,309 and any rights in the “Baja” mark identified therein allegedly accrued by Plaintiff under federal, state and/or common law.

Answer Plaintiff denies each and every allegation contained in paragraph 6 of the counter-claims.

Counter-Claim Paragraph 7: On information [sic] and belief, U.S. Trademark Registration No. 1,488,309 is unenforceable due to the actions or inactions of Plaintiff and/or its predecessors.

Answer Plaintiff denies each and every allegation contained in paragraph 7 of the counter-claims.

Counter-Claim Paragraph 8: Therefore, there exists an actual controversy between the parties as to the validity and infringement of U.S. Trademark Registration No. 1,488,309 and any rights in the “Baja” mark identified therein allegedly accrued by Plaintiff under federal, state and/or common law, with respect to which Defendants requests [sic] a declaratory judgment in its [sic] favor.

Answer Plaintiff admits that there exists an actual controversy as to U.S. Trademark Registration No. 1,488,309, but denies that Defendants are entitled to any relief based on the allegations set forth in paragraph 8.

Count 2 – Declaratory Judgment

Counter-Claim Paragraph 9: There is a justiciable controversy concerning the validity and infringement of U.S. Trademark Registration No. 1,488,304, and any rights claimed in the “Baja Tough” mark identified therein under state and common law as set forth in the Complaint and the Answer to which this counter-claim is appended.

Answer Plaintiff admits that there exists an actual controversy as to U.S. Trademark Registration No. 1,488,304, but denies that Defendants are entitled to any relief based on the allegations set forth in paragraph 9.

Counter-Claim Paragraph 10: Plaintiff has asserted that U.S. Trademark Registration No. 1,488,304 was duly and legally issued, that it has accrued rights in the “Baja Tough” mark identified therein under state and common law and that Defendants [sic] mark when applied to automotive lighting products infringes such rights.

Answer Plaintiff admits the allegations of paragraph 10 of the counter-claims.

Counter-Claim Paragraph 11: Defendants allege, on information and belief, that U.S. Trademark Registration No. 1,488,304 and any rights in the “Baja Tough” mark identified therein allegedly accrued by Plaintiff under federal, state and/or common law are invalid as failing to comply with the provisions of 15 U.S.C. §§1051 *et seq.* and the common law.

Answer Plaintiff denies each and every allegation contained in paragraph 11 of the counter-claims.

Counter-Claim Paragraph 12: Defendants have not infringed nor are they infringing U.S. Trademark Registration No. 1,488,304 and any rights in the “Baja Tough” mark identified therein allegedly accrued by Plaintiff under federal, state and/or common law.

Answer Plaintiff denies each and every allegation contained in paragraph 12 of the Counter-Claims.

Counter-Claim Paragraph 13: On information and belief, U.S. Trademark Registration No. 1,488,309 [sic] is unenforceable due to the actions or inactions of Plaintiff and/or its predecessors.

Answer Plaintiff denies each and every allegation contained in paragraph 13 of the counter-claims.

Counter-Claim Paragraph 14: Therefore, there exists an actual controversy between the parties as to the validity and infringement of U.S. Trademark Registration No. 1,488,304 and any rights in the mark identified therein allegedly accrued by Plaintiff under federal, state and/or common law, with respect to which Defendants requests [sic] a declaratory judgment in its [sic] favor.

Answer Plaintiff admits that there exists an actual controversy as to U.S. Trademark Registration No. 1,488,304, but denies that Defendants are entitled to any relief based on the allegations set forth in paragraph 14.

WHEREFORE, TAG denies that Defendants are entitled to the relief sought and respectfully requests that this Court adjudge and decree that:

- (1) Defendants' counter-claims be dismissed with prejudice;
- (2) Judgment be entered in favor of Plaintiff on all Counts; and
- (3) Plaintiff be awarded further and additional relief, including costs, and interest where appropriate, as this Court deems just and proper.

Dated: March 5, 2008

GREER, BURNS & CRAIN, LTD.

By: s/ Anuj K. Wadhwa
Lawrence J. Crain
Anuj K. Wadhwa

ATTORNEYS FOR PLAINTIFF
TIGER ACCESSORY GROUP, L.L.C.

GREER, BURNS, & CRAIN, LTD.
Lawrence J. Crain (ARDC No. 6185248, lcrain@gbclaw.net)
Anuj K. Wadhwa (ARDC No. 6278650, awadhwa@gbclaw.net)
300 South Wacker Drive, Suite 2500
Chicago, IL 60606
Telephone: (312) 360-0080
Facsimile: (312) 360-9315

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing PLAINTIFF'S
REPLY TO DEFENDANTS' COUNTER-CLAIMS was filed via the Case
Management/Electronic Case Filing (CM/ECF) System of the U.S. District Court for the
Northern District of Illinois pursuant to L.R. 5.9 on the 5th day of March 2008.

Donald W. Rupert
Michael R. Graham
Scott A. Sanderson
Grace Liu
MARSHALL, GERSTEIN & BORUN LLP
233 South Wacker Drive
6300 Sears Tower
Chicago, IL 60606-6357
(312) 474-6300
Fax: (312) 474-0448
drupert@marshallip.com
mgraham@marshallip.com
ssanderson@marshallip.com
gliu@marshallip.com

s/ Anuj K. Wadhwa